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INDEPENDENT STATE AUDITOR'S REPORT ON CERTAIN ACTIVITIES OF THE MASSACHUSETTS CONVENTION CENTER AUTHORITY JULY 1, 1994 TO MARCH 31, 1999

OFFICIAL AUDIT REPORT
APRIL 3, 2000

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INTRODUCTION

Background

The Massachusetts Convention Center Authority (MCCA) was established by Chapter 190 of the Acts of 1982 and Chapter 152 of the Acts of 1997 to acquire and operate the John B. Hynes Veterans Memorial Convention Center and the Boston Common Parking Garage, as well as to oversee the construction and financing of additional convention and exhibition centers in the Commonwealth. The Acts of 1997 appropriated $609,400,000 for the Commonwealth's share of the planning, financing, development, and construction of the South Boston Convention Center Project and $48,500,000 for the expansion, renovation, and construction of a civic and convention center located on the site of the present Springfield Civic Center.

Chapter 152 of the Acts of 1997 states that the MCCA will consist of 11 board members. Seven are appointed by the governor, two by the mayor of Boston, and two are state officials who serve ex officio. Of the seven gubernatorial appointments, two are unrestricted, one is from a list of three nominated by the Massachusetts Visitors Industry Council, two are from a list of five submitted by the Senate President, and two are from a list of five submitted by the House Speaker. Of the two mayoral appointments, one is unrestricted and one must be a resident of South Boston. The ex officio members are the Secretary of Administration and Finance or his designee, and the Collector-Treasurer of Boston or his designee. The board members serve at the pleasure of, and may be removed by, the official who appointed them. The governor, with the advice and consent of the mayor, designates one member to serve as chairman. Members serve without compensation, but time served as a member is to be credited for purposes of calculating public employee pension and retirement benefits.

The terms of seven of the nine appointed members expire December 31, 1999. From among his two unrestricted appointees and the Visitors Industry Council nominee, the governor must designate one to serve until the end of the year 2000 and another to serve until the end of 2001. Thereafter, members serve for six-year terms and are eligible for reappointment.

The management of the MCCA and its operations is carried out by a staff headed by an Executive Director. The present Executive Director holds the position until November 19, 2003, and can be removed by the MCCA only "for cause including misfeasance, malfeasance or willful neglect of duty after public notice and a public hearing." Thereafter, the Executive Director serves at the pleasure of the MCCA for a three-year term and may be reappointed.

Audit Scope, Objectives, and Methodology

Our audit was conducted in accordance with applicable generally accepted government auditing standards for performance audits. The objectives of this performance audit were to determine the efficiency and effectiveness of the MCCA's operations over cash management systems, inventory control, contract management systems, rental of the convention center facilities, operations costs, and employee costs, and to follow-up on prior audit results. Our audit covered the period July 1, 1994 to March 31, 1999.

Because the MCCA uses a private accounting firm to perform financial and compliance audits of its financial statements, our audit included a review of the accounting firm's workpapers and reports. In this regard, we reviewed the firm's planning of the audit, evaluated the financial statements and the firm's report, and reviewed and tested the firm's working papers. During our review, nothing came to our attention to indicate that the financial statements for the period covered were not fairly presented, nor did we find anything to indicate that the auditor's reports on the internal accounting control and on compliance with laws and regulations were inappropriate or could not be relied upon. Therefore, we relied upon the accounting firm's August 15, 1997 report.

We assessed the MCCA's compliance with its enabling legislation (Chapter 190 of the Acts of 1982) and conducted performance testing to determine the efficiency and effectiveness of MCCA's operations. We also conducted a follow-up review of the conditions noted in our prior audit report. To accomplish our objectives, we examined MCCA accounting records and other related documents, reviewed applicable laws and regulations, and interviewed selected MCCA officials and personnel.

AUDIT RESULTS

1. Noncompliance with Competitive Bidding Procedures

In granting a 15-month extension for the operation of the food and beverage service contract at the Hynes Convention Center, the Massachusetts Convention Center Authority (MCCA) did not follow its competitive bidding procedures, which require that all professional service contracts greater than $10,000 be publicly advertised for competitive bid. As a result, there is inadequate assurance that the MCCA has received the highest quality food and beverage services at the lowest cost.

The MCCA entered into a contract with ARA Leisure Services, Inc., (concessionaire) on October 16, 1987 for the operation of the food and beverage service at the Hynes Convention Center. Under the terms of the contract, the concessionaire provides all of the food and beverage services for the operation of the Convention Center, including operating food service areas, bars, and refreshment stands and preparing, dispensing, and selling food, alcoholic and non-alcoholic beverages, and tobacco products. In return, the concessionaire agreed to pay to the MCCA a base fee of $400,000 per year plus an annual percentage fee of the gross sales from its operations, less the annual base fee of $400,000, and an annual excess profit equal to one-half of the amount, if any, that the annual profit for each year exceeds 12% of the total gross sales for the year.

Each year the concessionaire prepares a Statement of Gross Sales that lists the commission/profit payable to the MCCA. For the fiscal year ended September 30, 1997, the total revenue received by the MCCA from the concessionaire totaled $1,276,810. The table below summarizes the revenue received by the MCCA from the concessionaire from its operations at the Hynes Convention Center under the terms of the agreement for contract years 1989 to 1997.

Revenue Received by MCCA

Contract Year	Percentage Fee[1]	Excess Profit	Total
1989	$ 942,501	$ 4,060	$ 946,561
1990	$ 753,118	-	$ 753,118
1991	$1,019,379	$ 4,109	$1,023,488
1992	$ 991,076	$ 95,272	$1,086,348
1993	$ 865,016	$ 4,111	$ 869,127
1994	$1,243,693	$153,207	$1,396,900
1995	$1,086,931	-	$1,086,931
1996	$1,288,498	-	$1,288,498
1997	$1,276,810	-	$1,276,810

[1]The percentage fee totals for each year include the Annual Base Fee payment of $400,000.

Pursuant to Section 2.2 of the contract between the MCCA and the concessionaire, the contract has been extended for five years with the same terms, covenants, and conditions contained in the original contract. The first extension was for three consecutive one-year periods, beginning on the expiration of the original term on September 30, 1993 through September 30, 1996. The second extension was for an additional two consecutive one-year periods, beginning on September 30, 1996 to September 30, 1998. By mutual agreement, however, the contract was extended a third time for 15 months through December 31, 1999 with the same terms, covenants, and conditions of the original contract. This amendment did not comply with the MCCA's competitive bidding policies, which require that all professional service contracts greater than $10,000 be publicly advertised for competitive bid.

The MCCA should have prequalified interested concessionaires by soliciting potential bidders for Request for Qualifications (RFQ), and issuing Requests for Proposals (RFP) to prequalified bidders. The most qualified bidder for the period October 1, 1998 to September 30, 1999 for the operation of the food and beverage concession could then be selected based on an evaluation of the responses. By adhering to this selection process the MCCA would be assured of selecting the most qualified bidder that would provide the highest quality services at the lowest cost.

MCCA officials indicated that they did not use a competitive selection process because they felt that a minimum of four months would be needed to prequalify interested concessionaires, issue RFPs, and evaluate the responses. They also stated that a lead time of several months would be needed before a new concessionaire could assume responsibility for the food services in order to allow clients to negotiate banquet arrangements with a new vendor (should the incumbent not be selected). Also, the officials felt that any changeover to a new vendor should be scheduled during a slow business period so that services to clients are not disrupted, and they believed that mid-December 1999 would be the best time from a client service perspective to schedule any such changeover.

We also found that the MCCA did not seek competitive bids for outside legal services totaling $40,947 in fiscal year 1997 and $84,796 in fiscal year 1998. These services were also acquired without soliciting potential bidders for RFQs and issuing RFPs to prequalified bidders.

Recommendation: In accordance with its own policies and procedures, the MCCA should forsee its needs and concerns and competitively bid the concessionaire food service contract at the earliest possible date to ensure that the most revenue is generated by selecting the most qualified bidder, and competitively bid for its legal services in the future.

Auditee's Response:

> The Authority takes its bidding procedures very seriously, and it should be noted that the exceptions noted were exactly that-rare exceptions. . . . .
>
> Since the completion of your field work, we have conducted and completed the bidding process for a new food services contract. At the conclusion of this process, ARAMARK was designated by the Food Service Selection Committee to be the best candidate. At the October 22nd meeting of the Board, ARAMARK was chosen as the new food services provider. We are currently finalizing the contract with a start date of January 1, 2000.
>
> With respect to the issues raised concerning legal services, the payments you point out relate to work performed in connection with or related to the firm's representation of the Authority in ongoing construction litigation. To competitively bid such services in the midst of ongoing litigation would serve no productive or useful purpose.

Auditor's Reply

We recognize the MCCA's concerns but the MCCA should comply with its own policies and procedures to competitively bid for legal services in the future as it relates to other matters and after the ongoing issues are disposed of.

2. Buy-Back Program for Vacation Leave

The MCCA expended $267,266 in a vacation buy-back program that was not approved as required by its Personnel Policies Manual. Specifically, 43 employees (see Appendix) sold vacation time for pay totaling $267,266 from July 1, 1994 to March 31, 1999, 14 of whom sold vacation time exceeding $5,000. The cost of the buy-back program for the past several years is as follows:

Fiscal Year	Amount
1995	$ 13,914
1996	50,354
1997	111,874
1998	63,066
1999	28,058
	$267,266

According to the MCCA Personnel Policies Manual, at the end of each fiscal year, employees may carry over up to one year's vacation credit to the 12-month period beginning July 1. The manual provides for unused vacation credit over one year to be forfeited unless an additional accumulation is authorized in writing by management. Employees whose posted vacation time exceeds two weeks of vacation may exchange (sell) the additional (vacation) time for pay. The vacation buy-back program is available to all MCCA employees.

Although the policy requires written approval to carry over accumulated vacation time in excess of one year's vacation credits, our review of payroll records revealed that vacation time is carried over routinely without any approval. In addition, although the MCCA vacation buyback form states that a "maximum of two weeks per fiscal year" may be bought back, our review disclosed that this policy is not enforced. For example, one employee sold over $72,000 in vacation pay, including $65,962 (35 weeks) in fiscal year 1997; another employee sold over $37,500, including $12,063 (8.7 weeks) in fiscal year 1997 and $11,432 (8 weeks) in fiscal year 1998; a third employee sold $23,576, including $14,100 (9 weeks) in fiscal year 1996; and a fourth employee sold $12,716, including $9,797 (6.25 weeks) in fiscal year 1998. These four employees' annual earnings, not including the vacation time sold, were $108,150, $74,265, $86,595, and $81,517, respectively.

Recommendation: The MCCA should comply with its policy of (1) requiring approval to carry over accumulated vacation time in excess of one year and (2) limiting vacation buyback to two weeks per fiscal year.

Auditee's Response:

The Authority will insure that the approval process for the carry over of vacation time is formalized. Although there is an informal review each year of the weeks being carried over, we will make sure that documentation is provided for each such review. Several other facts should be brought forward here.

a) No employee was allowed to sell back more than two weeks of vacation during the fiscal year without the approval of either the Deputy Director or the Executive Director.

b) Many of the employees in question, were credited with vacation time from other State authorities or agencies when they came to the MCCA.

c) The Authority has a fairly limited staff, particularly in the upper management positions. During the years referenced (1994-1999) the Authority was concerned not only with the normal management of operations, but several extraordinary events as well: (i) completion of construction and the reopening of the Boston Common Parking Garage, (ii) the conversion of the Authority's extensive computer systems from a VAX system to a Windows system, (iii) the legislatively mandated acquisition of the Springfield Civic Center, and (iv) the development of the $700 million Boston Convention and Exhibition Center project and proposed new renovation and expansion project in Springfield. These events mandated presence of executive staff on an ongoing basis.

It would be unfair to penalize staff for vacations they were unable to take. At the same time, the continued accrual of vacation hours was resulting in a high liability of dollars. Since vacation time is accrued during the time it is earned, the buy back of vacation time does not result in any additional expense to the Authority.

These facts notwithstanding, the Authority will continue to make a good faith effort to encourage employees to take their vacations and mandate the reduction of accrued vacation time over the allowed carry over levels. In addition, the Board will review its overall vacation policies.

Auditor's Reply:

The MCCA should comply with its personnel policies in the future and should have voted to approve these exceptions to its policy.

3. Prior Audit Results Resolved

Our prior audit report noted that the MCCA (a) provided convention center floor space for events without charging rent, (b) had questionable marketing expenses, and (c) retained excess revenues. Our follow-up review noted that the MCCA had resolved these issues, as follows.

a. Rental of Convention Center Floor Space: Our prior report noted that convention center floor space for various non-convention business events was provided at no charge. MCCA officials commented that, although there was no rent for these events, income was received from the food concession vendor. However, our review of six of these events indicated that the food fees totaled $5,962, or an average of approximately $1,000 per event. Because the MCCA incurs costs relating to setup, cleaning, and utilities for such events, the MCCA does not appear to profit or break even on such events. Our prior report recommended that the MCCA should review its practice of booking "no-charge" events (e.g., weddings, graduations) that are not consistent with the objectives of its marketing plan.

Our follow-up review noted that, during fiscal years 1997 and 1998, there were no wedding or graduation functions held at the convention center, but there were 16 events with no rental revenue. However, these events yielded revenue of $238,095 for support services (electricity, phone, air/water, cleaning, security, and equipment) and $98,095 for food that was served. An additional $54,900 was received by the MCCA from hotels in order to secure six of the events and increase their nighttime room occupancy, bringing the total revenue from these events to $391,090. We were also informed that the MCCA will try to limit "no rental" events to slow business periods. It therefore appears that the MCCA has responded to our prior recommendation.

b. Marketing Expenses: Our prior report stated that, according to the MCCA's 1992 and 1993 marketing plan, the two objectives in marketing the Hynes Convention Center are (1) to maximize nighttime room occupancy among the hotels serving the convention market and (2) to increase net revenues for the Hynes Convention Center. The MCCA expended $1,484,700 during the fiscal year ended June 30, 1993 in non-salary marketing expenses. Our testing of these expenditures disclosed certain expenses that did not meet either of these two objectives.

The MCCA spent $29,702 for events associated with Boston soccer and the 1994 World Cup Tournament. The 1994 World Cup Tournament, which was held at Foxboro Stadium, was virtually sold out for all of its events. Attendees of these events were using hotel rooms in the greater Boston area that might otherwise have been available to people attending conventions at the Hynes Convention Center. Therefore, the $29,702 that was expended for soccer-associated events did not satisfy either of the MCCA's two marketing objectives because these expenditures do not affect hotel bookings within the convention market or increase revenues to the Hynes Convention Center.

In addition, the MCCA spent over $8,000 on chauffeured vehicles to transport 42 people, including Boston hotel managers and MCCA staff, on a three-day marketing tour of the Washington, D.C. area. MCCA officials justified the use of such vehicles by stating that the MCCA wanted to conduct this tour in a "professional manner." We estimate that, had the MCCA rented luxury cars to be driven by the tour attendees, it would have paid approximately $3,000, a savings of over $5,000.

During fiscal year 1997, the MCCA expended $2,739,408 in non-salary marketing expenses. Our follow-up review, using a judgmental sample of expenditures over $100 for fiscal year 1997, revealed no instances of questionable expenditures.

c. Excess Revenue: The MCCA's Contract for Financial Assistance with the Commonwealth provides that the Commonwealth will provide contract assistance to the MCCA equal to the debt service on bonds outstanding. The Commonwealth made such debt service payments totaling $14,748,630 and $10,803,061 in fiscal years 1992 and 1993, respectively. Our prior report indicated that, as of June 30, 1993, the MCCA retained revenue of $3,048,539 that, according to Section 7 of the Contract for Financial Assistance, should be returned to the Commonwealth. This provision of the contract requires that "the Authority shall, within 120 days following the close of its fiscal year, pay over to the commonwealth any excess revenues of the Authority during such fiscal year derived from the Hynes project." MCCA officials stated, however, that this provision does not apply because these funds are retained earnings and not revenue. After further review, we agree with the MCCA that funds in the retained earnings account are not revenue within the definition of Section 7 and thus do not have to be returned to the Commonwealth.

During fiscal years 1994 to 1997, the MCCA received $9,471,413, $8,992,331, $9,325,462, and $10,754,000, respectively, from the Massachusetts Tourism Fund. During this same period, as of June 30, 1994, 1995, and 1996, the balance of MCCA's retained earnings account was a deficit of $4,278,286, $2,271,048, and $249,752, respectively. As of June 30, 1997 the balance was a positive $2,877,109.

4. Prior Audit Result Unresolved - Insufficient Inventory Controls

Our prior audit report indicated that the MCCA's controls over its fixed-asset inventory were deficient. Specifically, on June 30, 1993, the MCCA's perpetual inventory records indicated that it owned 13 vehicles, but our physical inspection of these vehicles revealed that only seven vehicles were on hand on that date. Six vehicles had been traded in prior to fiscal year 1993, but were not deleted from the perpetual inventory records. MCCA officials stated that, with the exception of convention floor tables and chairs, the MCCA did not conduct periodic physical inspections of fixed assets to verify its perpetual inventory records. As a result, the MCCA was unable to ensure the validity of its perpetual inventory records or to ensure that its fixed-asset inventory was safeguarded against loss, theft, or misuse.

Our prior report recommended that the MCCA improve its fixed-asset inventory controls by performing annual physical property inventory inspections and by updating its perpetual inventory records to properly reflect all additions and deletions of fixed assets. The MCCA concurred with our recommendation and stated that it was in the process of evaluating computerized systems for tracking fixed assets and updating inventory records.

Our follow-up review revealed that the MCCA's controls over its fixed-asset inventory were still deficient. The MCCA provided us with a "Fixed Asset Schedule" that listed each fixed-asset inventory item owned as of June 30, 1998 and stated that it had completed tagging all of the fixed-asset inventory items. The MCCA stated that, although a physical inspection of the fixed-asset inventory had not been performed, a complete physical inspection of the fixed-asset inventory was scheduled for August 1999 to coincide with the implementation of a new computer software system designed for tracking fixed assets and updating inventory records for any additions or deletions.

Recommendation: The MCCA should improve its fixed-asset inventory controls by performing annual physical inventory inspections to verify the existence of its fixed assets, and by implementing a computerized system for tracking fixed assets and updating inventory records.

Auditee's Response:

> As noted in your report we have addressed all of your concerns. We are continuing to address the physical inventory issue. As noted, all items have been tagged and we have begun using the Concentrics software for inventory. We will be scheduling ongoing physical inventories for the tagged items.

APPENDIX

Vacation Buyback by MCCA Employees July 1, 1994 to March 31, 1999

Amount	Employee
$ 72,202	Executive Director
37,525	Comptroller
23,576	Deputy Director
12,716	Convention Center Manager
9,576	Director of Security
7,881	Assistant Comptroller
7,807	Financial System and Training Manager
7,213	Sales Manager
6,885	Plumber
6,678	Electrician
5,774	Maintenance
5,548	Mason
5,454	Convention Service Coordinator
5,364	Sales Manager (Assistant)
4,651	Convention Center Manager
4,215	Sec. III
3,959	Security Officer
3,271	Load Dock Supervisor
3,062	Convention Service Coordinator
2,518	Plumber
2,518	Electrician
2,504	PR Manager
2,419	Electrician
2,112	Executive Secretary
2,083	Load Dock Supervisor
2,052	Purchasing Agent
1,774	Customer Service Supervisor
1,662	Sales Manager
1,652	HVAC/Mechanic
1,550	Electrician
1,550	Electrician
1,387	Convention Service Coordinator
1,357	Electrician
896	HVAC/Mechanic
822	Plumber
802	Sound Technician
756	Carpenter
721	Sales Manager
627	Sound Technician
620	Accounting 2 – Exhibits
587	Security Officer
515	Sec. III
425	Receptionist
$267,266	